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www.uspto.gov

Paper No. 16

William C. Rooklidge
Howrey Simon Arnold & White LLP
301 Ravenswood Avenue Box No 34
Menlo Park CA 94025

In re Application of
Adam Michael Fenne
Application No. 09/428,395
Filed: October 28, 1999
For: MATCHING A REDUCED SPECTRUM
LIGHTING SOURCE WITH VIDEO ENCODING
PROGRAM VARIABLES FOR INCREASED
DATA COMPRESSION RATIOS

MAIL

AUG 19 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600
DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the Petition to Withdraw Holding of Abandonment which is treated as pursuant to 37 C.F.R. §1.181, filed June 26, 2003 and resubmitted on September 29, 2003 and again on April 13, 2004. No fee is required.

The petition is **DENIED**.

This application became abandoned due to failure to pay the issue fee in response to the Notice of Allowance and Issue Fee Due mailed February 11, 2003. A Notice of Abandonment was mailed on June 19, 2003.

Petitioner has alleged non-receipt of the Notice of Allowance and Issue Fee Due. In the petition, the petitioner has provided a statement that the Notice was not received by the petitioner and a copy of the docket record where the non-received Office action would have been entered had it been received and docketed.

MPEP § 711.03(c) Petitions Relating to Abandonment, states in part:...

II. PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION

The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that:

- (a) the Office communication was not received by the practitioner;
- (b) attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.

Moreover, a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

As mentioned, Petitioner states that the Notice of Allowance and Issue Fee Due was not received and also references a docket log within their petition. Moreover, the petition does state "A thorough search of the file jacket and docket sheet uncovered no notice of allowance documents or entries", however, it is not clear from the petition if this is a statement from the Practitioner or the Applicant. The following paragraph of the petition states "...Applicant believes that he has made a good faith showing that the office action was not received." This tends to suggest that the Applicant is making the statement in the previous paragraph and thus does not comply with the requirements of a successful petition to withdraw the holding of abandonment due to the lack of a statement from the Practitioner attesting to a personal search of the file jacket and docket records and indicating that the office communication was not received.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision and include the statement from the Practitioner as outlined above.

The file is being forwarded to the file repository.



Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications